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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,827	08/25/2003	Jason Clay Pearson	80013	2939

7590 07/12/2005
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EXAMINER

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/647,827	Applicant(s) PEARSON ET AL.	
	Examiner Margaret Einsmann	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-8 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1 and 15-18 is/are rejected.
- 7) ☐ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/07; 1/21/05</u> | 6) <input type="checkbox"/> Other: ____ |

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This action is in response to applicant's amendment of 4/11/05 wherein the Group I claims were elected and the group II claims canceled. Claims 1-8 and 15-18 are pending. All pending claims are being examined in this action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Peters et al., US 3,759,959.

The dye anthraquinone dye at the bottom of column 18 anticipates the claim wherein

$R_1 = H$

$L = CONH$

$R = C_3alkyl$

$X = N(R_2); R_2 = C_2alkyl$

Q=toluene substituted with dicyanovinyl which is an ethylenically unsaturated photopolymerizable or free radical polymerizable group and

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n=1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. The dye in col 6 lines 40-47 meet the limitation of claim 1 in the following manner:

$R_1=H$

$L=\text{covalent bond}$

$R=C_2 \text{ alkylene}$

$X=NR_2$ wherein R_2 is H

$Q=CO-CCl=CCl_2$

The only element missing from this dye are the nitro and hydroxyl substituents on the left ring. However, patentee includes anthraquinone dyes having said substituents as equivalent to those which are unsubstituted on the left ring in several places. See for example dye in col 9 line 25 et seq, ; the two dyes in col 16 lines 37 et seq, and the dye in col 18 lines 60-65, as well as the dyes claimed in claims 1 and 3. Accordingly it

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would have been obvious to the skilled artisan that the dye as claimed is included in the dyes disclosed by Peters et al.

Regarding claim 15, it would have been obvious to one skilled in the art, a dyestuff chemist to form a concentrated composition of a known dye in a solvent for that dye, and additionally Peters states at col 10 lines 42-47 that the reactions are generally carried out in solvents, which would form a concentrated solution of the formulated dye in a solvent.

Claims 1, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters et al. Peters et al. is relied upon as applied in the above two rejections as disclosing the dye of formula 1 and the formation of such dyes in organic solvents. They do not, however, disclose compositions comprising the dyes in concentrated form in organic solvents, said compositions comprising antioxidant and/or UV absorbing compounds as claimed.

It would have been obvious to the man having skill in the art at the time the invention was made to formulate a composition as claimed wherein the dye of Peters is formulated into a concentrated composition comprising a solvent, UV absorbing compound and an antioxidant because it is well known in the art to provide dye compositions in the form of concentrated solutions in a solvent known to dissolve said dye for the benefits provided by said concentrated compositions, that is, ease in handling and prevention of dusting, and prevention of formation of clumps from mixing of dry dyes into coating compositions. Regarding the addition of the two additives, it is not inventive to use UV absorbing compounds and antioxidants for their known purpose.

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Claim informality: In claim 8 there is a double bond with no substituent attached, which commonly means that the substituent is CH₂. While it is not incorrect to use such a structure, the examiner mentions it because it is not analogous to applicant's other formulas. See claims 5-7.

Claims 2-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

No art was found to reject the compounds claimed in claims 2-8.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M, Tu,Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

7/6/05


Margaret Einsmann
Primary Examiner
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